

AMENDED IN ASSEMBLY MAY 15, 2014
AMENDED IN ASSEMBLY MARCH 20, 2014
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2606

Introduced by Assembly Member Dababneh

February 21, 2014

An act to add and repeal Section 17053.81 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2606, as amended, Dababneh. Income taxes: credit: long-term care.

The Personal Income Tax Law allows various credits against the taxes imposed by that law.

This bill would, for each taxable year beginning on or after January 1, 2015, and before January 1, 2020, allow a credit to a taxpayer in an amount equal to \$500 multiplied by the number of applicable individuals, as defined, with respect to whom the taxpayer is an eligible caregiver during that taxable year.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17053.81 is added to the Revenue and
- 2 Taxation Code, to read:

1 17053.81. (a) For each taxable year beginning on or after
2 January 1, 2015, and before January 1, 2020, there shall be allowed
3 to a taxpayer as a credit against the “net tax,” as defined in Section
4 17039, an amount equal to five hundred dollars (\$500) multiplied
5 by the number of applicable individuals for whom the taxpayer is
6 an eligible caregiver during the taxable year.

7 (b) For purposes of this section:

8 (1) (A) “Applicable individual” means an individual who has
9 been certified before the due date for filing the return of tax,
10 without extensions, for the taxable year by a physician as being
11 an individual with long-term care needs for a period of time that
12 is at least 180 consecutive days and a portion of that time occurs
13 within the taxable year.

14 (B) “Applicable individual” shall not include an individual
15 otherwise meeting the requirements of subparagraph (A) unless
16 within the preceding 39½ month period ending on the due date in
17 subparagraph (A) a physician has certified that the individual meets
18 those requirements.

19 (2) “An individual with long-term care needs” means an
20 individual who meets any of the following:

21 (A) The individual is at least six years of age and meets either
22 of the following:

23 (i) The individual is unable to perform at least three activities
24 of daily living, as defined in Section 7702B(c)(2)(B) of the Internal
25 Revenue Code, without substantial assistance from another
26 individual due to a loss of functional capacity.

27 (ii) The individual requires substantial supervision to protect
28 that individual from threats to health and safety due to severe
29 cognitive impairment and is unable to perform at least one activity
30 of daily living, as defined in Section 7702B(c)(2)(B) of the Internal
31 Revenue Code, or the individual is unable to engage in age
32 appropriate activities, to the extent provided by the Franchise Tax
33 Board in consultation with the Secretary of the California Health
34 and Human Services Agency.

35 (B) The individual is at least two years of age but less than six
36 years of age and is unable to perform without substantial assistance
37 from another individual due to a loss of functional capacity at least
38 two of the following activities: eating, transferring, or mobility.

39 (C) The individual is under two years of age and requires
40 specific durable medical equipment by reason of a severe health

1 condition or requires a skilled health care practitioner trained to
2 address the individual's condition to be available if the individual's
3 parents or guardians are absent.

4 (3) "Physician" has the same meaning as that term is defined
5 in ~~Section 1935(r)(1)~~ *213(d)(4)* of the Internal Revenue Code.

6 (c) (1) A taxpayer shall be treated as an "eligible caregiver"
7 for each taxable year for any *of* the following applicable
8 individuals:

9 (A) The taxpayer.

10 (B) The taxpayer's spouse.

11 (C) An individual for whom the taxpayer is allowed a credit
12 under subdivision (d) of Section 17054 for the taxable year.

13 (2) The requirements of this subdivision are met if an applicable
14 individual has as his or her principal place of abode the home of
15 the taxpayer and either of the ~~following~~: *following applies*:

16 (A) In the case of an applicable individual who is an ancestor
17 or descendant of the taxpayer or the taxpayer's spouse, the
18 applicable individual is a member of the taxpayer's household for
19 ~~over half more than one-half~~ the taxable year.

20 (B) In the case of any other applicable individual, the applicable
21 individual is a member of the taxpayer's household for the entire
22 taxable year.

23 (3) (A) Only one taxpayer shall be treated as an eligible
24 caregiver for an applicable individual. If more than one taxpayer
25 qualifies as an eligible caregiver for an applicable individual for
26 taxable years ending with or within the same calendar year, the
27 taxpayer who will not claim the applicable individual shall file a
28 written declaration, in the form and manner as the Franchise Tax
29 Board may prescribe, stating that he or she will not claim the
30 applicable individual for the credit allowed under this section.

31 (B) If no declaration is filed under subparagraph (A), the
32 taxpayer with the highest ~~federal modified adjusted gross income,~~
33 ~~as defined in Section 32(e)(2) of the Internal Revenue Code,~~
34 *adjusted gross income* shall be treated as the eligible caregiver.

35 (C) In the case of married individuals filing separate returns,
36 the determination as to which taxpayer is the eligible caregiver
37 shall be made pursuant to subparagraph (B), regardless of whether
38 or not one of them has filed a written declaration pursuant to
39 subparagraph (A).

1 (d) (1) A credit shall not be allowed under this section unless
2 the taxpayer includes the name and taxpayer identification number
3 of the ~~eligible~~ *applicable* individual and the identification number
4 or national provider identifier of the physician certifying the
5 applicable individual on the return of tax for the taxable year.

6 (2) The denial of any credit under paragraph (1) may be made
7 pursuant to Section 19051.

8 (e) The taxpayer shall retain the physician certification required
9 pursuant to paragraph (1) of subdivision (b) for ~~three years~~ *four*
10 *years from the date the return claiming the credit was filed* and
11 shall make that certification available to the Franchise Tax Board
12 upon request during that period.

13 (f) A credit shall not be allowed under this section for any
14 eligible caregiver whose adjusted gross income for the taxable
15 year is equal to or greater than one hundred thousand dollars
16 (\$100,000) in the case of a married couple filing a joint return, and
17 fifty thousand dollars (\$50,000) in the case of all other individuals.

18 (g) This section shall remain in effect only until December 1,
19 2020, and as of that date is repealed.

20 SEC. 2. This act provides for a tax levy within the meaning of
21 Article IV of the California Constitution and shall go into
22 immediate effect.